

ORDINANCE NO. 08-03

AN ORDINANCE AMENDING ORDINANCE NUMBER 2003-15 OF THE TOWN OF TRINITY, ALABAMA BY REQUIRING THE PURCHASE AND USE OF TOBACCO STAMPS AND PROVIDING FOR CERTAIN PROHIBITED ACTS

WHEREAS, the Town Council of the Town of Trinity, Alabama has determined that it can best administer its tobacco tax through the use of tax stamps.

NOW, THEREFORE, be it **ORDAINED** by the Town Council of the Town of Trinity, Alabama, as follows, to-wit:

SECTION 1. Section 7 of Ordinance Number 2003-15 of the Town of Trinity, Alabama is hereby amended by deletion of the entire language of said Section 7 and substitution of the following for same so that hereafter said Section 7 shall read, in its entirety, as follows:

“Section 7. Stamps Required.

(a) The clerk shall keep on hand for sale an adequate quantity of stamps to be affixed to each package of tobacco products in the denominations as required under this ordinance. Each such stamp shall have inscribed the words “Town of Trinity,” but these words need not be arranged in this order and may be abbreviated. The stamps may be sold to wholesale dealers only by the clerk at a price equal to 90 percent of the full amount, the remaining ten percent of such full amount representing compensation to the whole-sale dealer for the labor of affixing such stamps to the packages in which the tobacco products are contained. Such ten percent compensation to be allowed to such wholesale dealer shall apply only to purchases of stamps having a face value of not less than \$200.00. All other persons, except such wholesale dealers, must pay the full face amount of the stamps; but no person shall be entitled to purchase any such number of stamps as shall cause the purchase price to include a fraction of a cent.

(b) Before any tobacco products shall be sold, stored or delivered within the corporate limits of the town by any person, such person shall affix or cause to be affixed to each package of tobacco products a stamp obtained from the clerk, in the amounts set out in this article in payment of the license taxes imposed by this article. Every person shall, within twenty four (24) hours after receipt of any tobacco products within the town unless sooner offered for sale, cause stamps of the requisite amount of taxes to be affixed and shall cause the stamps to be canceled by writing or stamping with waterproof ink across the face of each stamp such registered number as shall be furnished to such person by the clerk. After such stamping has been begun, it shall be continued with reasonable diligence by such person until all unstamped tobacco products shall have been stamped and the stamps canceled; but no stamps required to be affixed to any package of tobacco products shall, after the stamp has been affixed as provided in this section, be again used in payment of any part of the tax levied under this article. In the case of tobacco products sold by retail in

packages, the stamps shall be affixed to each individual package in such a way that such stamps shall be torn in two or mutilated when such package is opened."

SECTION 2. Section 8 of Ordinance Number 2003-15 of the Town of Trinity, Alabama is hereby amended by deletion of the entire language of said Section 8 and substitution of the following for same so that hereafter said Section 8 shall read, in its entirety, as follows:

"Section 8. Prohibited Acts; Punishment.

- (a) It shall be unlawful for any person who is required by this article to affix stamps to tobacco products to fail to affix such stamps, or to cancel such stamps in the manner or within the time required by this article.
- (b) It shall be unlawful for any person to sell, offer for sale, store or deliver within the town any tobacco products where stamps have not been affixed and canceled, as provided in this article.
- (c) It shall be unlawful for any person to have in his possession or under his control any tobacco products where stamps have not been affixed in the manner as required by this article for more than twenty-four (24) hours after receipt of such tobacco products on the premises of such person. The possession of each package of tobacco products not having proper stamps affixed as required by this article shall be deemed a separate offense.
- (d) It shall be unlawful to manufacture, buy, sell, offer for sale or possess, or to attempt to do so, any reproduction or counterfeit of the stamps provided for in this article, or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such stamps, or to alter or cause to be altered any stamps provided for in this article.
- (e) It shall be unlawful to remove from a package or otherwise prepare any stamp with intent to use or cause the stamp to be used, after it has already been used, or to buy, sell, offer for sale or give away any washed, removed, altered or restored stamp to any person, or to have in possession any such washed or restored or altered stamp, or, for the purpose of indicating payment of any tax under this article, to reuse any stamp which has theretofore been used for the payment of any tax provided in this article, or to sell any stamp provided for in this article except as to sales made by the clerk.
- (f) It shall be unlawful to reuse or refill with tobacco products any package from which tobacco products have been removed and with respect to which the tax has theretofore been paid.
- (g) It shall be unlawful for any person who is in this ordinance required to keep records to fail or omit to keep the records in the manner provided in this ordinance, or to refuse to permit the agent of the town to inspect the records at any reasonable hour, or to interfere with or obstruct the agent of the town in the making of any such inspection.
- (h) It shall be unlawful for any person who is required in this ordinance to file statements with the clerk to fail or omit to make or file any statement

provided in this ordinance, within the time specified, or to make any false statement in such statement; and such offense shall be a continuing offense against the town; and each day during which such person shall sell or deliver tobacco products in the town during such default shall constitute a separate offense.

(i) Any person or entity who or which violates any provision of this ordinance shall be guilty of a misdemeanor for each such violation and, upon conviction, shall be punished by a fine not less than \$50.00 nor more than \$500.00 plus court costs, or by a jail sentence not to exceed six months, or by both such fine and imprisonment for each such conviction."

SECTION 3. Ordinance Number 2003-15 of the Town of Trinity, Alabama is hereby amended by adding thereto a section to be enumerated Section 8A and which shall read, in its entirety, as follows:

"Section 8A. Inspection of Machines.

The Town may require the owner of any tobacco product vending machine or the person in charge of the premises where such machine is located to open the machine for the purpose of permitting the examination of the tobacco products in the machine to ascertain if they are properly stamped. The failure or refusal to open the machine upon being so ordered shall be a misdemeanor; punishable as provided in Section 8(i) hereof."

SECTION 4. This Ordinance shall be deemed effective May 1, 2008 following its adoption and publication according to law.

ADOPTED and APPROVED this 14 day of April, 2008.



Vaughn Goodwin, Mayor

ATTEST:

(SEAL)



Barbara L. Jones, Town Clerk

My Commission Expires
4-19-09
LWM/zip0308/trinity.ordinance.tobaccostamps
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